No. 95-1364

Supreme Court, U.S.
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In The

Supreme Court of the United States

October Term, 1995

MARY D. SMITH,

Petitioner,

vs.

GLENOLDEN BOROUGH, THE BOROUGH COUNCIL OF GLENOLDEN BOROUGH, GEORGE E. HASSEL, DENISE McCARTHY, SARAH A. DOUGHERTY, JOSEPH SELFRIDGE, THEODORE BATHURST, KAREN CALUCCI, FRANCIS O'NEILL, ALBERT KELLEY, WILLIAM REESE, EDWARD G. ROTH, III, RUSSELL H. DECKER, AND JAMES BAILEY, BOROUGH BUILDING INSPECTOR,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Third Circuit

RESPONDENTS' BRIEF IN OPPOSITION

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54 pp

QUESTIONS PRESENTED FOR REVIEW

1. Whether the Court of Appeals correctly concluded that the section of the Glenolden Borough Code pertaining to administrative inspections is constitutional because it can be interpreted to allow warrantless entry only when consent is given.

2. Whether Chapter 93 of Glenolden Borough Code is nationally related to a reasonable legislative purpose as it applies to all structures in the Borough.

3. Whether the Court of Appeals properly held that the search warrant issued for the administrative inspection of Petitioner's residence was valid.

4. Whether Petitioner was granted all necessary due process procedural safeguards with respect to the notice of her violation and her criminal charges.

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STATEMENT OF THE CASE

This case involves the objections of Petitioner Mary D. Smith ("Ms. Smith") to an annual administrative inspection of her residence under the Glenolden Borough Code. Ms. Smith refused access to the Glenolden inspector, whereupon a search warrant was obtained by the Borough. The Court of Appeals found that the Glenolden Borough Code and the enforcement of the inspection provision by the Borough were constitutional and were in accordance with this Honorable Court's decision in *Camara v. Municipal Court of San Francisco*, 387 U.S. 523 (1967). The disputed Borough Code provision reads as follows:

> Inspection and access to dwellings. The Housing Officer or his agents are hereby authorized and directed to make inspections of the conditions of rental dwellings, multiple dwelling units, rooming units and other structures located in the Borough of Glenolden. Upon display of proper identification, the inspector is authorized to enter, examine and survey such units and premises on weekdays between 9:00 a.m. and 4:00 p.m. or at such other time as may be necessary in an emergency or as mutually agreed upon by the occupant and the Housing Officer or one of his agents.

The Glenolden Borough Code contemplates, and has been interpreted by the Court of Appeals as allowing, only warrantless, *consensual in*spections of premises and structures in the Borough.

FACTUAL BACKGROUND

The Borough of Glenolden enacted Chapter 93 of its Borough Code relating to "housing standards" for the stated purpose of promoting and protecting: ". . . the health, safety, morals and general welfare of the inhabitants of the Borough of Glenolden by abating over-crowded housing conditions; securing adequate lighting, heating, ventilation, access and egress; preventing or correcting unhygentic, unsanitary or unsafe conditions which might constitute a menace to the residents of the Borough of Glenolden." (App. 1a).[1] Under this chapter, the Borough provided for various mechanisms by which it could accomplish this purpose, including the performance of administrative inspections of: ". . . rental dwellings, multiple dwelling units, rooming units and other structures located in the Borough of Glenolden". (App. 21a).

Pursuant to this inspection provision, Ms. Smith was notified by her landlord that the housing inspector for the Borough of Glenolden was performing his annual inspection on October 18, 1993. Ms. Smith informed the president of Borough Council and the Borough Solicitor that she would refuse access to her apartment for the purpose of the administrative inspection until she was given a copy of the ordinance under which the Borough was conducting its inspection. The Borough Solicitor responded and sent Ms. Smith copies of the relevant code provisions.

When Ms. Smith persisted in her refusal to consent to the administrative search, the Borough applied to the District Justice for a search warrant. Counsel for Ms. Smith was advised that this action was being taken, and was sent a copy of the search warrant. The Borough finally conducted its administrative search of Ms. Smith's apartment pursuant to the search warrant.

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1. Chapter 93 is reproduced in its entirety in the Appendix hereto.

SUMMARY OF THE ARGUMENT

Ms. Smith is incorrect in her assertion that this case is controlled by the decision of this Court in *Marshall v. Barlow's, Inc.*, 436 U.S. 307, 98 S. Ct. 1816, 56 L. Ed. 305 (1978). Rather, the case at bar is distinguishable from *Marshall v. Barlow's Inc.* and is compatible with the decision in *Camara v. Municipal Court*, 387 U.S. 523, 87 S. Ct. 1727, 18 L. Ed. 2d 930 (1967).

Ms. Smith urges this Court to grant her petition so that it can supposedly extend its decision in *Marshall v. Barlow's* (which involved commercial property) to administrative searches of residential properties. The case of *Marshall v. Barlow's* involved OSHA regulations which are entirely different from the Borough ordinance in this case. That statute provided for warrantless searches of commercial premises so as to preserve the element of surprise. While the Glenolden Borough Code does not specifically mention a warrant requirement, the language clearly contemplates performing the inspection with the consent of the resident. (App. 21a). Also, the Code does not, as Ms. Smith asserts, limit its administrative inspections to properties occupied under a lease, and not properties which are owned or occupied. The language of the Code clearly includes both rental properties and "multiple dwelling units, rooming units and other structures located in the Borough of Glenolden". (App. 21a).

The Court of Appeals found that a search warrant obtained by the Borough was valid.[2] This Court has found that administrative purposes such as the one set forth in the Glenolden Borough Code can serve as valid probable cause for search warrants. *See Camara, supra.* The warrant obtained by the Borough clearly met this purpose, as well as identifying Ms. Smith's residence and the date of her last inspection. The Court of Appeals properly found that it was valid. The argument that the Borough violated Ms. Smith's due process rights is without

merit because the Borough Code provides sufficient procedural methods for appealing notices of violations. In addition, Ms. Smith was granted a full trial before a District Justice and was found guilty. She cannot argue that she was not afforded due process in that regard.

REASONS FOR DENYING THE WRIT

I.

THE COURT OF APPEALS PROPERLY HELD THAT THE GLENOLDEN BOROUGH CODE IS CONSTITUTIONAL.

Ms. Smith claims that the Glenolden Borough Code is unconstitutional on its face and that it conflicts with this Court's decision in *Marshall v. Barlow's, supra. Marshall* was a case involving the Occupational Safety and Health Act of 1970 (OSHA). 436 U.S. 307, 98 S. Ct. 1816. A business owner objected to an administrative search of his place of business pursuant to the OSHA regulations and sought an injunction prohibiting a warrantless search under that Act. *Id.* The Secretary of Labor argued in favor of the warrantless searches, claiming they were reasonable and that they provided them with the element of surprise necessary to prevent business owners from disguising violations. 436 U.S. at 316, 98 S. Ct. at 1822.

The case at bar is completely different from *Marshall v. Barlow's,* because the Borough of Glenolden has never argued in favor of warrantless searches and the Borough in fact obtained a valid search warrant prior to performing its administrative inspection of Ms. Smith's apartment. The holding in *Marshall* specifically takes into consideration the request by the Secretary of Labor to perform warrantless searches. The Court states at relevant part as follows:

> We conclude that the concerns expressed by the Secretary do not suffice to justify warrantless inspections under OSHA or vitiate the general constitutional requirement that for a search to be reasonable a warrant must be obtained . . . We hold that Barlow's was entitled to a declaratory judgment that the Act is unconstitutional *insofar as it purports to authorize inspections without warrant or its equivalent.*

436 U.S. at 324-325, 98 S. Ct. at 1826-1827 (emphasis supplied).

In this case, the Borough of Glenolden has not asked for authorization to conduct warrantless searches and does not interpret its own Code so as to permit warrantless searches. This is evident from the fact that the Borough obtained a search warrant before actually inspecting Ms. Smith's apartment.

II.

THE GLENOLDEN BOROUGH CODE DOES NOT PROVIDE FOR INSPECTION OF ONLY RENTED HOMES AND THEREFORE IS RATIONALLY RELATED TO A REASONABLE LEGISLATIVE PURPOSE.

Ms. Smith argues that the Glenolden Borough Code provides for inspections of only rented residences, not those which are owner occupied, and that therefore it creates an impermissible classification of people under the Fourth Amendment which renders the Code unconstitutional. The Court of Appeals did not address this issue for two reasons: first, Ms. Smith did not properly preserve the issue, and second, the court found that the Code itself was not violative of the Fourth

Amendment. Had the court actually looked into these claims, however, it would have deduced that the plain wording of the Code section itself does not limit the inspections to rental properties only. Section 93-9(c) provides for inspections of: ". . . rental dwellings, multiple dwelling units, rooming units and other structures located in the Borough of Glenolden." (App. 21a). The Code defines "multiple dwelling units" as: "any building, including an apartment or condominium building, containing two or more dwelling units". (App. 3a). There is no specific definition for "other structures", but the clear meaning of this encompasses owner occupied residential homes. The inspection provision is therefore not limited to rental properties only, and the arguments put forth by Ms. Smith concerning the creation of an impermissible class are without merit.

III.

THE SEARCH WARRANT OBTAINED BY THE BOROUGH OF GLENOLDEN WAS BASED UPON PROBABLE CAUSE AND THEREFORE VALID.

In *Camara v. Municipal Court,* this Honorable Court established that probable cause to issue a warrant to conduct a housing inspection depends upon the "reasonable legislative or administrative standards" for conducting the inspection. 387 U.S. at 538. The search warrant in this case was based upon the inspection provision in the Glenolden Borough Code which, as had been argued above, was reasonable and constitutional. As this Court found in *Camara,* a health inspector seeking probable cause for the issuance of a search warrant to perform an administrative inspection need not show the same kind of proof to a magistrate that a police officer must establish in a criminal case. *Id.* at 537. The inspector does not even have to have specific knowledge of a potential violation in the particular residence to establish probable cause. *Id.* at 537-538.

The search warrant in this case met all of the requirements needed under *Camara*. The health inspector set forth the following in his probable cause affidavit:

> The Borough of Glenolden has an ordinance which requires an annual inspection of all apartment dwelling units. The Borough has conducted the annual inspections of every other unit in the multi-family apartment complex other than the unit specified. Despite requests or [*sic*] access, the inspection has been refused by the occupant of this particular rental unit.
>
> The purpose of the inspection is to prevent substandard conditions and assure a safe and sanitary environment in compliance with the local codes for the protection of the occupaant (sic) of the unit in question as well as the health, safety and welfare of the adjacent occupants and the occupants of the complex. Date of last inspection March 9, 1992.

A. 39a.

Ms. Smith argues that the Borough included no facts specific to her residence in the search warrant or affidavit. This is clearly inaccurate, since the search warrant named her residence and noted that she had denied access, and that the date of the last inspection had been March 9, 1992, nearly two years earlier. Ms. Smith is also incorrect in her claim that search warrant was issued without notice to her, because her counsel was notified of the Borough's intent to obtain a search warrant and was sent a copy of the search warrant and affidavit once it was obtained.

IV.

GLENOLDEN BOROUGH DID NOT VIOLATE PETITIONER'S RIGHT TO DUE PROCESS.

In order to establish a cause of action for a violation of procedural due process, Ms. Smith would have to show that a person acting under color of state law deprived her of a protected property interest and that the procedure for challenging that deprivation does not satisfy the constitutional requirements. *Parratt v. Taylor*, 451 U.S. 527, 537 (1981). Due process requires that a deprivation of property "be proceeded by notice and an opportunity for hearing appropriate to the nature of the case," *Cleveland Board of Education v. Loudermill*, 470 U.S. 532, 542 (1985), and the opportunity to be heard must be at a meaningful time in a meaningful manner. *Armstrong v. Manzo*, 380 U.S. 545 (1965).

In the instant case, Ms. Smith has not established that the Borough's procedure for challenging her alleged deprivation does not satisfy the requirements of procedural due process. Chapter 93 of the Borough Code provides that when there is a violation of any provision of the chapter, the violator is to be given written notice of the violation which shall include reasons why it is being issued, and allow time for the performance of any act it requires. This notice was provided by the Borough Solicitor in his letter of October 15, 1993. The Borough Code also contains an appeal process set forth at sub-chapter 93-9F. (App. 22a). Ms. Smith never appealed the notice of the violation and has never alleged that the appeals process denies her procedural due process. With respect to the criminal charges filed against her, Ms. Smith admits that she was granted a full trial and was found guilty. She then took advantage of the summary appeal process. This appeal was terminated after the Borough finally

gained access to her residence with a search warrant.[2] She was never required to pay the fine assessed against her at the District Justice level.

Ms. Smith also claims that she was denied due process when the Borough failed to provide her with a full copy of the Borough Code. While the Court of Appeals did make a notation in their Opinion that this was inappropriate, the court did not find a violation of due process, nor did it make these comments part of any holding in this matter. Ms. Smith argues that her criminal conviction could not be undone, but she never actually had to pay her fine because the case was terminated. She therefore was not deprived of any constitutionally protected interest and suffered no violation of due process.

CONCLUSION

There have not been sufficient reasons set forth to justify the granting of this Petition for Writ of Certiorari. The opinion of the Third Circuit Court of Appeals is in accordance with this Court's decision in *Camara v. Municipal Court* and as distinguishable from *Marshall v. Barlow's*. The Respondents herein respectfully request that this Honorable Court deny the Petition.

Respectfully submitted,

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2. Petition for Writ of Certiorari, p. 5.

APPENDIX A — RELEVANT STATUTES

HOUSING STANDARDS

Chapter 93

§ 93-1. Purposes.

This chapter is enacted for the following purposes: to promote and protect the health, safety, morals and general welfare of the inhabitants of the Borough of Glenolden by abating overcrowded housing conditions; securing adequate lighting, heating, ventilation, access and egress; preventing or correcting unhygienic unsanitary or unsafe conditions which might constitute a menace to residents of the Borough of Glenolden.

§ 93-2. Interpretation.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, morals and general welfare. Where the provisions of this chapter impose greater restrictions than those of any other ordinance or regulation, the provisions of this chapter shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this chapter, the provisions of such statute, ordinance or regulation shall be controlling.

§ 93-3. Definitions.

Unless otherwise expressly stated, the following words and phrases shall be construed throughout this chapter to have the meaning herein indicated. The singular shall include the plural, and the plural shall include the singular. The present tense shall include the future tense.

Appendix A

BASEMENT — The portion of any dwelling located partly underground but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

CELLAR — The portion of any dwelling having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

DWELLING UNIT — Any room or group of rooms located in a multiple dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

EXTERMINATION — The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping; or by any other recognized and legal pest elimination method.

GARBAGE — Includes waste or decayed fruit or animal and vegetable matter, liquid or otherwise, which attends the preparation, use, cooking or storing of meat, fish, fowl or fruit.

HABITABLE ROOM — A room or enclosed floor space used or intended to be used for living, sleeping or eating purposes, excluding bathrooms, laundries, foyers, pantries, communicating corridors, stairways, closets, basement recreation rooms, storage spaces and other nonhabitable areas.

Appendix A

HOUSING OFFICER — The official of the Borough of Glenolden designated by the Borough Council to assist in the enforcement of this chapter.

INFESTATION — The presence, within or around a multiple dwelling, of any insects, rodents or other pests.

MULTIPLE DWELLING — Any building, including an apartment or condominium building, containing two (2) or more dwelling units.

NEW OR CONVERTED DWELLING UNIT — A newly constructed dwelling unit or a dwelling unit located in a single-family dwelling converted into a multiple dwelling.

OCCUPANT — Any person living and sleeping in a dwelling unit or rooming unit.

OPENABLE AREA — The part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR — Any person having charge, care, management or control of any multiple dwelling or part thereof in which dwelling units or rooming units are let.

OWNER — Any person who, alone or jointly or severally with others:

A. Shall have legal title to any multiple dwelling or dwelling unit, with or without accompanying actual possession thereof; or

Appendix A

B. Shall have charge, care or control of any multiple dwelling or dwelling unit, as owner or agent of the owner, or as executor, administrator, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter and of the rules and regulations adopted pursuant thereto to the same extent as if he were the owner.

PERSON — An individual, firm, corporation, association or partnership.

ROOMING UNIT — Any rented room or group of such rooms forming a single habitable unit used or intended to be used for living and sleeping but not for cooking or eating purposes.

RUBBISH — Any waste, discarded or rejected matter or substance, vegetable, animal or mineral, including unused chattels, furnishings, tools, vehicles, implements, trash, debris, scrap, junk, garbage, leaves, decayed or fallen trees, the branches or other parts thereof, stones, ashes, cinders, papers and all other superfluous, abandoned or unused materials or substances of whatsoever kind and condition.

SUPPLIED — Installed, furnished or provided by the owner or operator at his expense.

TEMPORARY HOUSING — Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system and is not permitted to be used for habitation in the Borough of Glenolden.

Appendix A

§ 93-4. Plumbing, heating and electrical facilities.

No person shall let to another for occupancy any dwelling unit which does not comply with the following requirements:

A. Water supply. Every dwelling unit shall be supplied with a properly installed pressurized potable water supply.

B. Kitchen facilities. Every dwelling unit shall be supplied with:

(1) A kitchen sink in good working condition and properly installed in conformity with the Plumbing Code of Glenolden Borough.[1]

(2) Installed cooking facilities or utility connections for such facilities. Every piece of cooking equipment shall be so constructed and installed that it will function safely and effectively and shall be maintained in sound working condition. Stove heating and flame units shall be at least six (6) inches from any facing wall.

(3) Every new or converted dwelling unit shall be equipped with an approved exhaust fan capable of removing cooking odors and smoke from all kitchens.

C. Bathroom facilities. Every dwelling unit shall contain one (1) or more rooms which afford privacy to a person

1. Editor's Note: See Ch. 127, Plumbing.

and which are supplied with a flush toilet, a lavatory basin and a bathtub or shower, all of these facilities in good working condition and properly installed in conformity with the Plumbing Code of the Borough of Glenolden.[2]

D. Hot and cold water. Every kitchen sink, lavatory basin and bathtub or shower required by this chapter shall be properly connected in conformity with the Plumbing Code of the Borough of Glenolden[3] and supplied with both hot and cold water. The hot-water lines shall be connected to water heating facilities which are capable of heating and supplying continuous hot water at a minimum temperature of one hundred twenty degrees Fahrenheit (120° F.) even when the heating facilities required by this chapter are not in operation.

E. Plumbing fixtures. All plumbing fixtures shall be properly connected in accordance with the Plumbing Code of the Borough of Glenolden.[4]

F. Heating facilities. Every multiple dwelling shall be supplied with properly installed heating facilities which are capable of safely and adequately heating all habitable rooms and bathrooms within its walls to a temperature of at least sixty-eight degrees Fahrenheit (68° F.) at a distance three (3) feet above floor level at an

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2. Editor's Note: See Ch. 127, Plumbing.

3. Editor's Note: See Ch. 127, Plumbing.

4. Editor's Note: See Ch. 127, Plumbing.

outdoor temperature of zero degrees Fahrenheit (0° F.). Portable heating facilities employing flame and which use gasoline, kerosene or gas as fuel do not meet the standard.

G. Electrical service. Every multiple dwelling shall be provided with an approved adequate electrical service as defined by the National Electrical Code. Every habitable room and bathroom of such new or converted dwelling shall be supplied with at least two (2) separate electric convenience outlets in the wall. Every bathroom, laundry room, furnace room and public hall shall contain at least one (1) switch-operated light fixture on the ceiling or the wall. Every such outlet or fixture shall be properly installed and shall be maintained in good and safe working condition.

(1) All exposed wiring shall have insulation that is not frayed, dry-rotted or brittle and generally in good condition. Switches and outlets shall be operable at all times and plates shall be secured in position. No temporary wiring shall be used except extension cords [no more than one (1) in each outlet] which run directly from portable electrical fixtures to outlets and which are not run under floor covering materials or extended through doorways, windows or other similar openings. In no case shall extension cords be used outdoors unless specifically rated for exterior use.

Appendix A

§ 93-5. Light and ventilation.

No person shall let to another for occupancy any multiple dwelling, dwelling unit or rooming unit which does not comply with the following:

A. Natural light in habitable rooms. Every habitable room or bathroom shall have at least one (1) window or skylight facing directly to the outdoors. The minimum aggregate area available for unobstructed light shall not be less than ten percent (10%) of the floor area of such room.

B. Light in nonhabitable space. Every stair, hall, cellar, basement, laundry, furnace room and similar nonhabitable work space located in a structure used for rental for human habitation shall have adequate light capable of providing at all times not less than fifty (50) footcandles of light at floor level. Every public hall and stairway in a multiple dwelling shall also be adequately lighted at all times to provide not less than fifty (50) footcandles of light at floor level.

C. Ventilation in habitable rooms. Every habitable room or bathroom shall be ventilated either by openable areas directly accessible to the outdoors and equal to at least forty-five percent (45%) of the required window area or by equivalent mechanical ventilation.

D. Ventilation in bathrooms. The required bathroom in each dwelling unit shall be ventilated either by an openable area directly accessible to the outdoors and not less than one and one-half (1 1/2) square feet or by equivalent mechanical ventilation.

Appendix A

E. Required space in new or converted dwelling units and sleeping rooms. Every two-bedroom new or converted dwelling unit shall contain at least six hundred fifty (650) square feet of total space, excluding stairways. Every one-bedroom new or converted dwelling unit shall contain at least five hundred (500) square feet of total space, excluding stairways. In every new or converted dwelling unit of two (2) or more rooms, every room occupied for sleeping purposes shall contain at least one hundred (100) square feet of floor space.

F. Required access to bathrooms or sleeping rooms. No new or converted dwelling unit containing two (2) or more sleeping rooms shall have room arrangements such that access to a bathroom or water closet compartment intended for use by occupants of more than one (1) sleeping room can be had only by going through another sleeping room, nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment.

G. Required ceiling height. In every new or converted dwelling unit, the ceiling height from the floor area of every habitable room shall be seven (7) feet six (6) inches.

H. Basement dwelling units. No basement space shall be used as a habitable room or dwelling unit unless:

(1) The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness.

(2) The requirements of Subsections A and C hereof relating to natural light and ventilation in habitable rooms are met.

(3) The required minimum window area is located entirely above the grade of the ground adjoining such window area.

§ 93-6. Property maintenance.

No person shall let to another for occupancy any multiple dwelling or dwelling unit for the purpose of living therein, or premises, which does not comply with the following requirements. The Housing Officer of the municipality shall cause periodic inspections to be made of rental multiple dwelling premises to secure compliance with these requirements.

A. Grading and drainage.

(1) All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon or within any building or structure located thereon.

(2) Downspouts and rain leaders shall be so placed on all structures as to minimize the flow of excess water upon and across any adjacent properties.

B. Noxious weeds.

(1) All exterior property areas shall be kept free from species of weeds or plant growth which are noxious or detrimental to the public health, and

grass shall not at any time exceed a height of six (6) inches.

(2) Hedges, briars or any other growth planted for or intended to be used for ornamental purposes, after the same have lost their ornamental or useful purposes by reason of having been unkempt or untrimmed, shall be ordered cut and removed by the Housing Officer.

C. Accessory structures. All accessory structures, including detached garages, tool sheds, storage sheds, fences or any other appurtenances to the main building, shall be maintained at all times in a neat manner, in good repair and shall be effectively structurally sound.

D. Junked motor vehicles. No person shall keep or maintain on public or private property any motor vehicle that is inoperable, that does not have a current license tag or current inspection sticker and that has been left unattended for a period of ninety-six (96) hours. Such vehicle shall be classed as "junked" and shall be removed in accordance with the provisions as hereinafter provided; except that antique cars shall be identified by an antique license plate as issued by the State of Pennsylvania, and that automobiles in the process of being reconstructed for purposes of qualifying as antiques shall be registered with the Housing Officer and the Police Department of the Borough of Glenolden.

E. Structural safety.

Appendix A

(1) Every outside stair, every porch and every appurtenance attached thereto shall be so constructed as to be safe to use and capable of supporting the loads to which it is subjected as required by the Building Code,[5] and shall be kept in sound condition and good repair.

(2) In public or multiple dwellings, every stairwell and every flight of stairs which is more than two (2) risers high shall have handrails or railings. Every handrail shall be firmly fastened and must be maintained in good condition. Properly balustraded railings capable of bearing normally imposed loads shall be placed on the open portions of stairs, balconies, landings and stairwells.

F. Windows and doors.

(1) Every window sash shall be fully supplied with glass window panes or an approved substitute which are without open cracks or holes. Every window sash shall be in good condition and fit reasonably tight within its frame. Every window, other than a fixed window, shall be capable of being easily opened and shall be held in position by window hardware. Every exterior door, door hinge and door latch shall be maintained in good condition. Every exterior door, when closed, shall fit reasonably well within its frame. Every window, door and frame shall be constructed and

5. Editor's Note: See Ch. 54, Building Construction

maintained in such relation to the adjacent wall construction as to exclude rain as completely as possible and to substantially exclude wind from entering the multiple dwelling or multifamily dwelling.

G. Free from dampness. In every rental multiple dwelling, dwelling unit and rooming unit, cellars, basements and crawl spaces shall be maintained reasonably free from dampness to prevent conditions conducive to decay or deterioration of the structure as required by the Building Code.[6]

H. Maintained in good repair. All floors, flooring baseboards and trim shall be free of wide cracks and loose, warped, protruding and rotted sections which could constitute a hazardous and unsanitary condition. Walls and ceilings must be free of holes, large cracks, loose plaster and other structural material which could collapse and become an accident hazard. Plaster, paint and other surface materials shall be of such character as to be easily cleanable and reasonably smooth, clean and tight.

I. Bathroom floors. Every toilet and bathroom floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

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6. Editor's Note: See Ch. 54, Building Construction.

Appendix A

§ 93-7. Safe and sanitary maintenance.

No person shall let to another for occupancy any multiple dwelling, dwelling unit or rooming unit in a structure which does not comply with the following minimum standards for safe and sanitary maintenance:

A. Structural condition. Every foundation shall be watertight and rodentproof and shall be kept in good repair.

B. Openings to the exterior. Every window, exterior door, hatchway or skylight shall be effectively weathertight and watertight and shall be kept in sound working condition and good repair.

C. Stairways, porches and balconies. Every stairway, porch and balcony as well as every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and repair.

D. Storage rooms. Storage rooms in all multiple dwellings that furnish tenants with lockers for storage shall have walls and ceilings covered with either Sheetrock or wire lath with cement plaster having a burn rating of at least ninety (90) minutes.

§ 93-8. Responsibilities of owners and occupants.

In addition to any specific contractual agreements between owners and occupants with respect to responsibilities, the following shall apply:

Appendix A

A. Maintenance of premises.

(1) Every adult occupant of a dwelling unit or rooming unit shall be responsible for maintaining in clean and sanitary condition the premises which he occupies or controls. Every owner of a building containing two (2) or more dwelling and/or rooming units shall be responsible for maintaining in clean and sanitary condition the shared or public areas within and around such building and premises.

(2) Every dwelling unit in which animals of any kind are housed must be kept clean and free from animal droppings and obnoxious odors. In the event the animals are housed in other accessory structures, these structures and the surrounding yard shall be clean and free of animal droppings and obnoxious odors.

B. Maintenance of equipment. Every occupant of a dwelling unit or rooming unit shall be responsible for the exercise of proper care in the use and operation of all plumbing fixtures, appliances and equipment therein. Every owner of a building containing two (2) or more dwelling and/or rooming units shall be responsible for keeping supplied facilities in proper operating condition.

C. Waste disposal.

(1) Every occupant of a dwelling unit or rooming unit shall dispose of rubbish, garbage and other refuse

in accordance with the regulations of the Borough of Glenolden governing such matters.[7] In a structure containing two (2) or more dwelling and/or rooming units, it shall be the responsibility of the owner to assure that adequate rubbish and garbage containers are provided.

(2) Rubbish stored outdoors shall be stored in one (1) or more rubbish storage containers which are flytight, rodentproof, nonflammable, waterproof and weatherproof.

(3) Rubbish stored in the basement or cellar or in an enclosed structure such as a shed shall be stored in nonflammable containers.

(4) No loose rubbish shall be placed upon or strewn about on the floor of any basement or cellar or other part of any dwelling or on the ground surrounding any multiple dwelling.

(5) Garbage is to be wrapped and stored in one (1) or more flytight and watertight metal garbage storage containers equipped with tightly fitting metal covers.

(6) Every outside or inside garbage or rubbish storage container shall be so maintained and so located on the premises that no odors will permeate any dwelling or dwelling units.

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7. Editor's Note: See Ch. 86, Garbage, Rubbish and Refuse.

(7) No loose garbage shall be placed upon or strewn about on the floor of any basement or cellar or any other part of any dwelling or on the ground surrounding any multiple dwelling.

(8) Waste storage facilities shall be so located and designed that access can be had at all times by waste collectors. Parking in front of such facilities shall be prohibited, and such prohibition shall be enforced by the owner.

D. Extermination. In a structure containing two (2) or more dwelling and/or rooming units, the owner and the operator shall be responsible for such extermination.

E. Discontinuance of utilities or facilities. No owner, operator or occupant shall cause any service facility, equipment or utility which is required to be supplied under the provisions of this chapter to be removed from, shut off from or discontinued for any occupied dwelling unit or rooming unit, except for necessary repairs, alterations or emergencies, but not to exceed twelve (12) hours per day, except that the owner shall not be responsible for such public utility where said owner has no control over the same.

F. Occupancy of vacant units. No person shall occupy or permit to be occupied by another any vacant rental dwelling unit or rooming unit unless or until it is in good repair, clean, sanitary, in habitable condition and in full compliance with all the provisions of this chapter. No new or converted rental dwelling unit or rooming unit shall be occupied and no rental dwelling unit or

rooming unit which has been vacated shall be occupied until a certificate of occupancy is first obtained from the Housing Officer. Units shall first be inspected by the Housing Officer before issuing a certificate of occupancy, to determine whether all of the requirements of this chapter have been met.

G. Screening. Every owner of a building containing two (2) or more dwelling and/or rooming units shall be responsible for providing every operable window, door or other opening to the exterior with effective screening protection against mosquitoes, flies and other insects.

H. Sidewalks.

(1) Sidewalks, together with any portion of a property that is paved and used as a sidewalk or public walk, shall be kept in good repair, free from large cracks, raised blocks, depressions or any condition which could render the sidewalk hazardous to pedestrian travel.

(2) Sidewalks shall at all times be kept free and clear of all obstructions to safe and convenient passage.

(3) Tree branches, bushes or any other growth shall not project over any sidewalk lower than a height of nine (9) feet, nor shall they protrude in such a manner as to restrict safe and convenient passage.

§ 93-9. Administration and enforcement.

The Borough Council of the Borough of Glenolden shall

appoint a Housing Officer and such deputies and assistants as are necessary to enforce the provisions of this chapter. Such positions may be combined with another position or positions established in the borough. In order to determine compliance with and enforce the provisions of this chapter, the following shall apply:

A. Issuance of certificates of occupancy. [Amended 12-28-78 by Ord. No. 823, approved 12-28-78; 5-12-88 by Ord. No. 931, approved 5-12-88]

(1) No person, firm or corporation owning, managing, conducting or operating a dwelling unit shall rent, lease, let out or permit the same to be occupied or shall rerent the same without first securing the following:

(a) An annual certificate of occupancy for each dwelling unit issued pursuant to the provisions of this chapter and other applicable ordinances and rules and regulations enacted by the Borough Council.[1]

(b) In addition to the foregoing, a certificate of occupancy for every vacant dwelling unit issued pursuant to the provisions of this chapter and other applicable ordinances and rules and regulations enacted by the Borough Council prior to its occupancy.

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1. Editor's Note: See also § 162-68, Certificates of occupancy.

Appendix A

(2) **[Amended 2-14-1991 by Ord. No. 964, approved 2-14-1991]** The Housing Officer and/or his agent or agents are hereby authorized and directed to process all applications for certificates of occupancy and, prior to the issuance of the same, to determine that all of the requirements of this chapter and/or of any other applicable ordinances and rules and regulations enacted by the Borough Council have been met. The fee for the issuance of any certificate of occupancy shall be as follows:

(a) If only one (1) inspection is required prior to issuance, the fee shall be fifty dollars ($50.).

(b) If more than one (1) inspection is required prior to issuance, the fee in Subsection A(2)(a) above shall be increased by the sum of twenty-five dollars ($25.) for each additional inspection after the first inspection.

(3) The fee for the first inspection shall be filed with the application for the certificate of occupancy, and any additional fees for additional inspections shall be paid prior to the issuance of the certificate of occupancy.

B. The owner and the operator of any dwelling unit which has been rented, leased or let out or rerented during any calendar year shall, on or before February 15 of the following year, file a list with the Housing Officer setting forth the number of units occupied as of

December 31 of the reporting year and the names of the tenants thereof.

C. Inspection and access to dwellings. The Housing Officer or his agents are hereby authorized and directed to make inspections of the conditions of rental dwellings, multiple dwelling units, rooming units and other structures located in the Borough of Glenolden. Upon display of proper identification, the inspector is authorized to enter, examine and survey such units and premises on weekdays between 9:00 a.m. and 4:00 p.m. or at such other time as may be necessary in an emergency or as mutually agreed upon by the occupant and the Housing Officer or one of his agents.

D. Access for repairs. Every occupant of a rental dwelling unit or rooming unit shall grant to the owner or his agents or employees free access to it at reasonable times for the purpose of making repairs or alterations to effect compliance with this chapter.

E. Notice of violation.

(1) When the Housing Officer determines that there exists a violation of any provision of this chapter, he shall serve written notice of such violation on the person or persons responsible therefor, as hereinafter provided:

(2) Such notice shall:

(a) Be put in writing.

(b) Include a statement of the reasons why it is being issued.

(c) Allow a reasonable time for the performance of any act it requires.

(d) Be served upon the owner or his agent or upon the occupant, as the case may require; provided that such notice shall be deemed to be properly served upon such person if a copy thereof is sent by registered or certified mail to his last known address, or if he is served by any other method authorized or required under the laws of this state.

(3) Such notice may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter and with rules and regulations adopted pursuant thereto.

F. Appeals from notice of violation. Any person affected by any notice which has been issued in connection with the enforcement of any provisions of this chapter or of any rule or regulation adopted pursuant thereto may request and shall be granted a hearing on the matter before the Borough Council of Glenolden or a committee appointed by the Borough Council, provided that such person shall file in the office of the Housing Officer a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within seven (7) days after the day the notice was served. Upon receipt of such petition the Borough Council or its appointed committee shall set a

time and place for such hearing and shall give petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than seven (7) days after the day on which the petition was filed. After the hearing the Borough Council or its appointed committee may sustain, modify or withdraw the notice of the violation on the basis of the findings at the hearing and shall give petitioner written notice thereof. Such proceedings shall be summarized in writing and shall become a matter of public record in the office of the Housing Officer. Such record shall also include a copy of every notice or order issued in connection with the matter. If the appointed committee hears the petitioner and makes a decision which the petitioner rejects, the petitioner shall have the right to appeal to the entire Borough Council within seven (7) days of receiving the notice, asking the entire Borough Council to hear the case and make the ruling. Any person aggrieved by the decision of the Borough Council may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this state.

G. Effective date of notice of violation. Any notice served pursuant to Subsection E shall automatically become an order if a written petition is not filed in the office of the Housing Officer within seven (7) days after such notice is filed.

H. Emergency action. Whenever the Housing Officer finds that there exists any violation of this chapter which creates an emergency requiring immediate correction

to protect the health or safety of any occupant of a rental dwelling or the public, he may issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Borough Council shall be afforded a hearing as soon as possible. After such hearing, depending upon the findings of the Council as to whether the provisions of this chapter and of the rules and regulations adopted pursuant thereto have been complied with, the Housing Officer shall continue such order in effect, or modify it or revoke it.

I. Dwelling units unfit for human habitation. Whenever the Housing Officer finds that a rental dwelling unit constitutes a serious hazard to the health or safety of the occupants or to the public because it is dilapidated, unsanitary, vermin-infested, rodent-infested or lacking in basic facilities and equipment required by this chapter, he shall designate such dwelling unit as unfit for human habitation. Such designation shall be posted on the dwelling and shall specify the reason for such a finding. A notice of violation shall also be served in accordance with the provisions of Subsection E. Any dwelling unit so designated shall be vacated within a reasonable time as specified by the Housing Officer and shall not again be used for human habitation until the hazard or violation has been eliminated or corrected and the Housing Officer has removed the designation and given written approval for occupancy. A report of any

such closings must immediately be filed with the Borough Council.

J. Adoption of rules and regulations. The Borough Council is authorized to make and adopt such procedural rules as it may deem necessary for the proper enforcement of this chapter; provided that such procedural rules and regulations shall not be in conflict with the substantive provisions of this chapter. Such rules and regulations shall have the same force and effect as the provisions of this chapter, and the penalty for violation thereof shall be the same as the penalty for violation of the provisions of this chapter.

K. Abatement of violations. If a violation has not been corrected within the time designated for such compliance and the Borough Council finds that the continuation of such violation constitutes a public nuisance or hazard, it may order the correction of such violation, using borough funds or borough personnel to accomplish such corrections, and may charge the cost thereof to the violator. It may collect such cost by lien and/or otherwise as may be authorized by the laws of this state.

L. Penalty for violations. Any person who violates any provision of this chapter or any provision of any rule or regulation adopted by the Borough Council pursuant to authority granted by this chapter, or fails to correct within a reasonable time the defects for which the dwelling or dwellings have been cited, shall, upon conviction before a District Justice, pay a penalty of not less than twenty-five dollars ($25.) nor more than three

hundred dollars ($300.), and in default of payment of such fine, be imprisoned for not less than one (1) day nor more than thirty (30) days.[8]

8. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

APPENDIX B — NOTICE TO RESIDENTS

GLEN KNOLL MANOR
GLEN WOOD MANOR
GLEN VIEW MANOR

RENTAL OFFICE

200 KAREN CIRCLE • GLENOLDEN, PA 19036 •
215-532-0900

October 7, 1993

RESIDENTS — GLEN KNOLL MANOR

PLEASE BE ADVISED THAT THE BUILDING INSPECTOR FOR THE BOROUGH OF GLENOLDEN WILL BE DOING THEIR YEARLY INSPECTION ON MONDAY, OCTOBER 18, 1993. SHOULD YOU WISH TO BE HOME, WE WILL BE STARTING THE INSPECTION AROUND 10:00 A.M. IF YOU WILL NOT BE HOME, ANYONE HAVING A TOP LOCK, PLEASE LEAVE IT OFF SO THAT WE CAN GAIN ACCESS TO YOUR UNIT.

SHOULD YOU HAVE ANY QUESTIONS, PLEASE DO NOT HESITATE TO CALL THE OFFICE.

KATHLEEN M. HILL
GLEN VIEW MANOR

APPENDIX C — LETTER FROM MARY D. SMITH TO THE PRESIDENT OF COUNCIL DATED OCTOBER 12, 1993

99 E. GLENOLDEN AVE B311
GLENOLDEN, PA 19036
OCTOBER 12, 1993

PRESIDENT OF COUNCIL
BOROUGH OF GLENOLDEN
36 E. BOON AVE.
GLENOLDEN, PA 19036

DEAR MR. HASSEL,

ON 7 OCTOBER 1993 I RECEIVED THE ENCLOSED LETTER FROM THE MILL CREEK SERVICE CO. STATING THE INSPECTOR FOR THE BOROUGH OF GLENOLDEN WOULD BE CONDUCTING AN INSPECTION OF MY RESIDENCE ON 18 OCTOBER 1993. PLEASE BE ADVISED I HAVE SERIOUS CONCERNS ABOUT THIS INSPECTION. THEREFORE, PLEASE ACCEPT THIS COMMUNICATION AS A FORMAL NOTICE THAT ACCESS TO MY RESIDENCE IS DENIED UNTIL THIS MATTER IS RESOLVED. ON 12 OCTOBER 1993 MS. K. HILL, GLEN VIEW MANOR, WAS ADVISED VERBALLY THAT ACCESS WAS NOT PERMITTED FOR INSPECTION PURPOSES WITH THE ASSURANCE THAT WRITTEN CONFIRMATION WOULD FOLLOW, SHORTLY.

UNDER FOIA REGULATIONS, I REQUEST A COPY OF THE REGULATION OR ORDINANCE THAT IS BEING INVOKED BY THE BOROUGH'S REPRESENTATIVES. THIS DOCUMENT SHOULD INCLUDE THE PRIMARY GOVERNMENTAL AUTHORITY FOR THE REGULATION/

Appendix C

ORDINANCE AND THE TOTAL PURPOSE, SCOPE, AND PROCEDURES THAT ARE APPLICABLE. ENCLOSED IS A PERSONAL CHEQUE FOR THE SUM OF $25.00 TO COVER THE COSTS OF THIS FOIA REQUEST.

MR. HASSEL, A PORTION OF MY INITIAL POSITION IS THAT A GOVERNMENTAL BODY SHOULD NOT HAVE INSPECTION RIGHTS OF MY RESIDENCE (IN RESIDENCE FOR 21 YRS) WITHOUT PROBABLE CAUSE. THIS INSPECTION IS CONSIDERED AN INVASION OF PRIVACY, UNWILLING INCURRENCE OF COST ($50.00 PER UNIT), AND AN INTRUSION OF MY RESIDENCE.

PLEASE FORWARD THE REQUESTED DOCUMENTS TO THE ABOVE ADDRESS. SHOULD ADDITIONAL MONIES BE REQUIRED TO COVER THIS FOIA REQUEST, I MAY BE CONTACTED AT MY RESIDENCE 534-5976 OR BUSINESS 215-737-7482.

IT IS HOPED THAT REVIEW OF THE SUPPORTIVE REGULATIONS WILL CLARIFY THE SITUATION EXPEDITIOUSLY. YOUR ASSISTANCE IN THIS MATTER IS MOST APPRECIATED.

RESPECTFULLY,

s/ Mary D. Smith
MARY D. SMITH

APPENDIX D — LETTER FROM RICHARD C. TINUCCI TO MARY D. SMITH DATED OCTOBER 15, 1993

LUSKUS AND TINUCCI
ATTORNEYS AND COUNSELORS AT LAW
MAIN LINE FEDERAL SAVINGS BUILDING
FRONT AND ORANGE STREETS
P.O. BOX 61
MEDIA, PENNSYLVANIA 9063-0081
215 565-6677

October 15, 1993

Ms. Mary D. Smith
99 E. Glenolden Avenue
B311
Glenolden, Pa. 19036

Re: Borough of Glenolden

Dear Ms. Smith:

I am Solicitor for the Borough of Glenolden and your letter of October 12, 1993 is acknowledged. For your reference I have enclosed a copy of Section 93-1 of the Code for the Borough of Glenolden which explains the purpose of the applicable Housing Ordinance. I have also enclosed a copy of Section 93-9 of the Housing Ordinance where it discusses inspections and Use and Occupancy certificates. I direct your attention to Section 93-9C where it discusses inspections and access to dwellings. I believe that this Ordinance is self explanatory.

I have also enclosed a copy of Section I where it discusses the penalties for a violation thereof.

Appendix D

It should be noted that this Ordinance is an effect for the protection of the residents of Glenolden. We make these annual inspections to assure not only ourselves, but the residents that the dwellings thereof are safe. I trust that after you read this information you will agree to the inspection. If you still do not agree to the inspection, we will proceed in accordance with the law to not only enforce the inspection, but have penalties imposed in accordance with the applicable law.

I would ask that you get back to me one way or another within ten days from the date of this letter.

Very truly yours,

s/ Richard C. Tinucci
RICHARD C. TINUCCI

RCT:C
cc: Mr. George Hassel
Ms. Denise McCartny
Mr. James C. Bailey
Ms. Sarah A. Dougherty

Appendix D

HOUSING STANDARDS

Chapter 93

§ 93-1. Purposes.

This chapter is enacted for the following purposes: to promote and protect the health, safety, morals and general welfare of the inhabitants of the Borough of Glenolden by abating overcrowded housing conditions; securing adequate lighting, heating, ventilation, access and egress; preventing or correcting unhygienic unsanitary or unsafe conditions which might constitute a menace to residents of the Borough of Glenolden.

§ 93-2. Interpretation.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, morals and general welfare. Where the provisions of this chapter impose greater restrictions than those of any other ordinance or regulation, the provisions of this chapter shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this chapter, the provisions of such statute, ordinance or regulation shall be controlling.

§ 93-3. Definitions.

Unless otherwise expressly stated, the following words and phrases shall be construed throughout this chapter to have the meaning herein indicated. The singular shall include the plural, and the plural shall include the singular. The present tense shall include the future tense.

Appendix D

BASEMENT — The portion of any dwelling located partly underground but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

CELLAR — The portion of any dwelling having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

DWELLING UNIT — Any room or group of rooms located in a multiple dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

EXTERMINATION — The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible . . . .

* * *

§ 93-9

. . . may be combined with another position or positions established in the borough. In order to determine compliance with and enforce the provisions of this chapter, the following shall apply:

A. Issuance of certificates of occupancy. [Amended 12-28-78 by Ord. No. 823, approved 12-28-78; 5-12-88 by Ord. No. 931, approved 5-12-88]

(1) No person, firm or corporation owning, managing, conducting or operating a dwelling

unit shall rent, lease, let out or permit the same to be occupied or shall rerent the same without first securing the following:

(a) An annual certificate of occupancy for each dwelling unit issued pursuant to the provisions of this chapter and other applicable ordinances and rules and regulations enacted by the Borough Council.[1]

(b) In addition to the foregoing, a certificate of occupancy for every vacant dwelling unit issued pursuant to the provisions of this chapter and other applicable ordinances and rules and regulations enacted by the Borough Council prior to its occupancy.

(2) **[Amended 2-14-1991 by Ord. No. 964, approved 2-14-1991]** The Housing Officer and/or his agent or agents are hereby authorized and directed to process all applications for certificates of occupancy and, prior to the issuance of the same, to determine that all of the requirements of this chapter and/or of any other applicable ordinances and rules and regulations enacted by the Borough Council have been met. The fee for the issuance of any certificate of occupancy shall be as follows:

(a) If only one (1) inspection is required prior to issuance, the fee shall be fifty dollars ($50.).

(b) If more than one (1) inspection is required prior to issuance, the fee in Subsection A(2)(a) above shall be increased by the sum of twenty-five dollars ($25.) for each additional inspection after the first inspection.

(3) The fee for the first inspection shall be filed with the application for the certificate of occupancy, and any additional fees for additional inspections shall be paid prior to the issuance of the certificate of occupancy.

B. The owner and the operator of any dwelling unit which has been rented, leased or let out or rerented during any calendar year shall, on or before February 15 of the following year, file a list with the Housing Officer setting forth the number of units occupied as of December 31 of the reporting year and the names of the tenants thereof.

C. Inspection and access to dwellings. The Housing Officer or his agents are hereby authorized and directed to make inspections of the conditions of rental dwellings, multiple dwelling units, rooming units and other structures located in the Borough of Glenolden. Upon display of proper identification, the inspector is authorized to enter, examine and survey such units and premises on weekdays between 9:00 a.m. and 4:00 p.m. or at such other time as may be necessary in an emergency or as mutually agreed upon by the occupant and the Housing Officer or one of his agents.

Appendix D

D. Access for repairs. Every occupant of a rental dwelling unit or rooming unit shall grant to the owner or his agents or employees free access to it at reasonable times for the purpose of making repairs or alterations to effect compliance with this chapter.

E. Notice of violation.

(1) When the Housing Officer determines that there exists a violation of any provision of this chapter, he shall serve written notice of such violation on the person or persons responsible therefor, as hereinafter provided:

(2) Such notice shall:

(a) Be put in writing.

(b) Include a statement of the reasons why it is being issued.

* * *

and may charge the cost thereof to the violator. It may collect such cost by lien and/or otherwise as may be authorized by the laws of this state.

L. Penalty for violations. Any person who violates any provision of this chapter or any provision of any rule or regulation adopted by the Borough Council pursuant to authority granted by this chapter, or fails to correct within a reasonable time the defects for which the dwelling or dwellings have been cited, shall, upon

conviction before a District Justice, pay a penalty of not less than twenty-five dollars ($25.) nor more than three hundred dollars ($300.), and in default of payment of such fine, be imprisoned for not less than one (1) day nor more than thirty (30) days.[8]

8. Editor's Note: Amended at time of adoption of Code: see Ch. 1, General-rovisions, Art. I.

APPENDIX E — SEARCH WARRANT

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF *Delaware*

APPLICATION FOR
SEARCH WARRANT
AND AFFIDAVIT

WARRANT CONTROL
E 24147

James Bailey, Building Inspector, Glenolden Boro 36 E. Boon Ave.
(Name of Affiant – address of private affiant)

being duly sworn (as affirmed) before me according to law, deposes and says that there is probable cause to believe that certain property is evidence of or the fruit of a crime or is contraband or is unlawfully possessed or is otherwise subject to seizure and is located at particular premises or in the possession of particular person as described below.

IDENTIFY ITEMS TO BE SEARCHED FOR AND SEIZED
Apt. B-311 at 99 E. Glenolden Avenue, Glenolden, Delaware County, Pa. (Apartment of Mary D. Smith)

SPECIFIC DESCRIPTION OF PREMISES AND/OR PERSONS TO BE SEARCHED (*Street and No., Apt. No., Vehicle, Safe Deposit Box, etc.):*
B-311
99 E. Glenolden Avenue, Glenolden, Pa.

NAME OF OWNER, OCCUPANT OR POSSESSOR OF SAID PREMISES TO BE SEARCHED
Mary D. Smith

Appendix E

VIOLATION OF
Violation of Chapter 93, Section 9 of the Code for Glenolden (failure to allow inspection of property)

DATE OF VIOLATION
1/93 to date

PROBABLE CAUSE BELIEF IS BASED ON THE FOLLOWING FACTS AND CIRCUMSTANCES
The Borough of Glenolden has an Ordinance which requires an annual inspection of all apartment dwelling units. The Borough has conducted the annual inspections of every other unit in the multi-family apartment complex other than the unit specified. Despite requests or access, the inspections have been refused by the occupant of this particular rental unit.

The purpose of the inspection is to prevent sub-standard conditions and assure a safe and sanitary environment in compliance with the local codes for the protection of the occupaant of the unit in question as well as the health, safety and welfare of the adjacent occupants and the occupants of the complex. Date of last inspection March 9, 1992

* * *

s/ James Bailey Glenolden Boro Hall 36 E. Boon Ave. Glenolden
Signature of Affiant Address of Private Affiant

Sworn to and subscribed before me this *24th* day of *FEB* 1994

Office *1555 Elmwood Ave*
Address *Follcoft, PA*

Appendix E

s/ Peter P. Tozer
Signature of Issuing Authority (SEAL)

Msg. Dist. No. *32-2-42*

TO LAW ENFORCEMENT OFFICER: WHEREAS, facts have been sworn to or affirmed before me by written affidavit(s) attached hereto from which I have found probable cause, I do authorize you to search the premises or person (described on the reverse side), and to seize, secure, inventory, and make return according to the Pennsylvania Rules of Criminal Procedure, the items described on the reverse side.

☐ This warrant should be served as soon as practicable but in no event later than *9:30* A.M. *2/26*, 19*94* and shall be served only during daytime hours of 6 A.M. to 10 P.M.

Issued under my hand this *24th* day of *FEB*, 19*94*, at *9:30 A.M.* o'clock

(SEAL) s/ Peter P. Tozer
(Signature of Issuing Authority)

Mag. Dist. No. *32-2-42* Office Address *1533 Elmwood Ave Folcroft, PA* Phone No. *583-1664*

Date Commission Expires *1st Monday of Jan. 2000*

Title of Issuing Authority, *District Justice*

* * *